

§ 1962.14

(5) Any payment obligation imposed on the potential purchaser by the secured party as a condition for waiver or release of lien. The original or a copy of the written notice also must be sent to the purchaser within 1 year before the sale of the farm products. The written notice will lapse on either the expiration period of the Financing Statement or the transmission of a letter signed by the County Supervisor and showing that the statement has lapsed or the borrower has performed all obligations to the Agency.

(b) Lists of borrowers whose chattels or crops are subject to an Agency lien may be made available, upon request, to business firms in a trade area, such as sale barns and warehouses, that buy chattels or crops or sell them for a commission. These lists will exclude those borrowers whose only crops for sale require FSA Farm Programs (formerly ASCS) marketing cards. The list is furnished only as a convenience and may be incomplete or inaccurate as of any particular date.

(1)-(2) [Reserved]

[61 FR 35930, July 9, 1996, as amended at 62 FR 10157, Mar. 5, 1997]

§ 1962.14 Account and security information in UCC cases.

Within 2 weeks after receipt of a written request from the borrower, the Agency must inform the borrower of the security and the total unpaid balance of the Agency indebtedness covered by the Financing Statement.

(a) If the Agency fails to provide the information, it may be liable for any loss caused the borrower and, in some States, other parties, and also may lose some of its security rights. The UCC provides that the borrower is entitled to such information once every 6 months without charge, and the Agency may charge up to \$10 for each additional statement. However, the Agency provides them without charge.

(b) Although the UCC only requires the Agency to give information pursuant to the borrower's written request, the Agency will also answer oral requests. Furthermore, the UCC does not prohibit giving this information to others who have a proper need for it, such as a bank or another creditor contem-

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plating advancing additional credit to the borrower.

[50 FR 45783, Nov. 1, 1985, as amended at 54 FR 47960, Nov. 20, 1989; 61 FR 35930, July 9, 1996]

§ 1962.15 [Reserved]

§ 1962.16 Accounting by County Supervisor.

The Agency will maintain a current record of each borrower's security. Whenever an inspection is performed, the borrower must advise the Agency of any changes in the security and will complete and sign Form FmHA 1962-1 in accordance with § 1924.56 if it has not been previously completed for the year.

(a) *Agency responsibilities.* Chattel security will be inspected annually except in cases where the Agency official has justified in assessment or analysis review that no undue risk exists. An FO borrower who has been current with the Agency and who has provided chattels as additional security is an example of a case where an inspection may not be needed. All inspections will be recorded in the running record of the borrower's file. More frequent inspections should be made for delinquent borrowers or borrowers that have been indebted for less than 1 full crop year. The Agency official will discuss the provisions of §§ 1962.17 and 1962.18 and assist the borrower in completing the form. If a borrower does not plan to dispose of any chattel security, the form should be completed to show this and should be signed. When the Agency official has other contacts with the borrower, the official should also check for dispositions and acquisitions of security. Changes will be recorded on the form, dated and initialed by the borrower and the agency official. The purpose of all inspections is to:

(1) Verify that the borrower possesses all the security,

(2) Determine security is properly maintained, and

(3) Supplement security instruments.

(b) *Dispositions.* The County Supervisor will record all dispositions of chattel security on Form FmHA or its successor agency under Public Law 103-354 1962-1, and on the file copy of the security agreement or chattel mortgage. The original security instrument

must not be altered. Additional acquired chattel security should be entered on the file copy of the security agreement or chattel mortgage and must be described on subsequent security instruments.

(c) *Unapproved dispositions.* Unapproved dispositions of security will be handled in accordance with §§1962.18 and 1962.49 of this subpart.

[50 FR 45783, Nov. 1, 1985, as amended at 58 FR 46075, Sept. 1, 1993; 61 FR 35930, July 9, 1996]

§ 1962.17 Disposal of chattel security, use of proceeds and release of lien.

(a) *General.* (1) The borrower must account for all security. When the borrower sells security, the property and proceeds remain subject to the Agency's lien until the lien is released. All checks, drafts, or money orders which the borrower receives for the sale of collateral listed on Form FmHA 1962-1 (available in any Agency office) must be payable to both the borrower and the Agency unless all Agency loan installments for the period of the form have been paid including any past-due installments. If the borrower disposes of collateral or uses the proceeds in a way not listed on Form FmHA 1962-1, the borrower will have violated the loan agreement, and the Government will not release its security interest in the collateral. Releases of sales proceeds will be terminated when the borrower's accounts are accelerated.

(2) Section 1924.56 requires that there must always be a current Form FmHA 1962-1 in the file of a borrower with a loan secured by chattels. If a borrower asks the Agency to release proceeds from the sale of chattels and there is a current Form FmHA 1962-1 in the file, the request will be approved or disapproved in accordance with paragraph (b) of this section. If the borrower's request for release is denied, the borrower must be given attachment 1 of exhibit A of subpart S of part 1951 of this chapter, a written explanation of the reasons for the denial, and the opportunity for an appeal in accordance with 7 CFR part 780. Immediately upon determining that the borrower does not have a current Form FmHA 1962-1 in the file, the County Supervisor will im-

mediately contact the borrower to develop one.

(3) If the borrower requests a change(s) to Form FmHA 1962-1, and the County Supervisor can approve the change(s), the borrower and the County Supervisor will initial and date each change in accordance with item (6) in the Forms Manual Insert (FMI) for Form FmHA 1962-1. The form will be marked "Revised" and the borrower will be notified in writing confirming that the change(s) has been approved.

(b) *Use of Form FmHA 1962-1.* (1) County Supervisors are authorized to approve or disapprove dispositions of Agency chattel security in accordance with this subpart. The County Supervisor, with the assistance of the borrower, will complete Form FmHA 1962-1 in accordance with the FMI (available in any Agency office) to show how, when, and to whom the borrower will sell, exchange, or consume security and use sale proceeds (include milk sale proceeds). Government payments, crop insurance and insurance proceeds derived from the loss of security will also be accounted for on Form FmHA 1962-1. This includes, for example, sale proceeds on hand and crops in storage. Only the proceeds from the sale of normal income security can be used to pay essential family and farm operation expenses. Proceeds from the sale of basic security will not be used for essential family living and farm operating expenses. In addition to payment of prior liens, basic security can only be released for the purposes listed in paragraphs (b)(2)(iv) through (b)(2)(vii). When proceeds from the disposition of normal income security are to be used to pay essential family living or farm operating expenses, County Supervisors must approve the disposition. Any disposition of basic or normal income security must be recorded on Form FmHA 1962-1. However, the borrower is responsible for providing the County Supervisor with the necessary information to update the Farm and Home Plan and Form FmHA 1962-1.

(2) Under all circumstances, sales proceeds must be remitted to creditors with liens on the proceeds, in order of priority of those liens. Proceeds which are released by a prior lienholder or which are in excess of the amount due